

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

BAODING TIANWEI GROUP CO., LTD, a  
foreign entity,

No. 3:07-cv-00862-HU

Plaintiff,

## OPINION AND ORDER

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PACIFICORP, an Oregon corporation,  
Defendant.

PACIFICORP, an Oregon corporation,

Third-Party Plaintiff,

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WINBO INTERNATIONAL CORP., a California corporation; SUPER POWER EQUIPMENT CO., a California corporation,

### Third-Party Defendants.

SUPER POWER EQUIPMENT CO., a  
California Corporation.

### Counter-Claimant.

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BAODING TIANWEI GROUP CO., LTD, a  
foreign entity.

Counter-Defendant.

1 HUBEL, Magistrate Judge:

2       This matter comes before the Court on Plaintiff Baoding  
 3 Tianwei Group Co. Ltd.'s ("Plaintiff") motion (Docket No. 213) for  
 4 default judgment against Third-Party Defendants Winbo International  
 5 Corp. and Super Power Equipment Co. (collectively, "the Third-Party  
 6 Defendants") on Plaintiff's second amended counterclaims.

7       Under Federal Rule of Civil Procedure ("Rule") 55(b), the  
 8 court may enter default judgment against defendants who have failed  
 9 to plead or otherwise defend an action. The "court's decision  
 10 whether to enter default judgment is a discretionary one." *Aldabe*  
 11 *v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980). In exercising its  
 12 discretion, the court may consider

13       (1) the possibility of prejudice to the plaintiff, (2) the  
 14 merits of plaintiff's substantive claim, (3) the  
 15 sufficiency of the complaint, (4) the sum of money at  
 16 stake in the action; (5) the possibility of a dispute  
 concerning material facts; (6) whether the default was  
 due to excusable neglect, and (7) the strong policy  
 underlying the [Rules] favoring decisions on the merits.

17 *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986). When  
 18 assessing the *Eitel* factors, "all factual allegations in the  
 19 complaint are taken as true, except those with regard to damages."  
 20 *Ortega v. Griggs & Assocs., LLC*, No. 5:11-cv-02235, 2012 WL  
 21 2913202, at \*2 (N.D. Cal. July 13, 2012).

22       Having considered the extensive briefing submitted by  
 23 Plaintiff, as well as live testimony during a *prima facie* hearing  
 24 held on April 16, 2014, the Court concludes that the *Eitel* factors  
 25 weigh in favor of entering default judgment against the Third-Party  
 26 Defendants. Accordingly, the Court GRANTS Plaintiff's motion  
 27 (Docket No. 213) for default judgment. Plaintiff is awarded: (1)  
 28 the total principal amount of \$7,460,669.87; (2) pre-judgment

1 interest in the principal amount of \$6,784,127.62 through May 9,  
2 2014, plus daily interest of \$1,839.62 from and including May 10,  
3 2014 until the judgment is entered; (3) post-judgment interest on  
4 all amounts owed, pursuant to 28 U.S.C. § 1961, until paid in full;  
5 and (4) Plaintiff's costs and disbursements incurred herein,  
6 pursuant to 28 U.S.C. § 1920.

7 IT IS SO ORDERED.

8 Dated this 26th day of September, 2014.

9 /s/ Dennis J. Hubel

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 DENNIS J. HUBEL  
11 United States Magistrate Judge  
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